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79

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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23334	7590	12/16/2005	EXAMINER	
FLEIT, KAIN, GIBBONS, GUTMAN, BONGINI & BIANCO P.L. ONE BOCA COMMERCE CENTER 551 NORTHWEST 77TH STREET, SUITE 111 BOCA RATON, FL 33487			HAMZA, FARUK	
		ART UNIT	PAPER NUMBER	
		2155		
DATE MAILED: 12/16/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/017,951	BAUMEISTER ET AL.	
	Examiner Faruk Hamza	Art Unit 2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 14 October 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-25 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

<ol style="list-style-type: none"> 1)<input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3)<input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____. 	<ol style="list-style-type: none"> 4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____. 5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6)<input type="checkbox"/> Other: _____.
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Response to Amendment

1. This action is responsive to the amendment filed on October 14, 2005.

Claims 1,6,8,11,13,15,17,21,24 and 25 have been amended. Claims 1-25 are now pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1,2,4-6,8,10,11,13,15,17,20-22,24 and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Chen et al. (U.S. Patent Number 6,412,004) hereinafter referred as Chen.

Chen teaches the invention as claimed including a metaserver for managing the delivery of multimedia streams from, a plurality of multimedia servers to multiple clients over a diverse network (See abstract).

As to claim 1, Chen teaches a method for directing a user on a network to a server, comprising the steps of:

 sending to the user a client side program that reads a local time of the user (Column 7, lines 19-65, Chen discloses reading client's local time);

 receiving from the user a request and the local time of the user, wherein the client side program effectuated the sending of the local time of the user (Column 7, lines 19-65, Chen discloses sending local time of user);

 determining from the local time of the user the topological location of the user on the network (Column 7, lines 19-65, Chen discloses using local time to locate the user);

 determining from the topological location of the user an identity of the server that is capable of fulfilling the user's request and that is topologically nearest to the user (Column 7, lines 19-65, Chen discloses selecting best server from based on location); and

 directing the user to the identified server, wherein a time required to satisfy the request of the user is optimized (Column 7, lines 19-65, Chen

discloses directing to the selected server).

As to claim 2, Chen teaches the method of claim 1, wherein the request of the user comprises any one of:

- a Hyper Text Transfer Protocol request;
- a File Transfer Protocol request; and
- a Simple Mail Transfer Protocol request (Column 4, lines 9-11).

As to claim 4, Chen teaches the method of claim 2, wherein the receiving step comprises the step of:

receiving from the user a request and the local time of the user in response to the activation of the client side program by the user (Column 7, lines 19-65).

As to claim 5, Chen teaches the method of claim 4, wherein the activation of the client side program by the user comprises the user clicking on a link (Column 7, lines 19-65).

As to claim 6, Chen teaches the method of claim 2, wherein the first determining step comprises the step of:

determining the topological location of the user on the network, wherein the determining takes the following factors into account:

the local time of the user (Column 7, lines 19-65);
a geographical location of the user (Column 7, lines 19-65); and
a topology of the network of the user (Column 7, lines 19-65).

As to claim 8, Chen teaches the method of claim 2, wherein the second determining step comprises the step of:

determining the identity of the server that is capable of fulfilling the user's request and that is topologically nearest to the user, wherein the determining takes the following factors into account:

the topological location of the user on the network (Column 7, lines 19-65);
the topological location of other servers on the network (Column 7, lines 19-65);

the capability of other servers on the network to fulfill the user's request (Column 7, lines 19-65);

a strength of the connection between the user and other servers on the network (Column 7, lines 19-65); and

a processing load of the other servers on the network (Column 7, lines 19-65).

As to claim 10, Chen teaches the method of claim 2, wherein the directing step comprises the step of:

forwarding the request of the user to the identified server (Column 7, lines 19-65).

As to claim 11, Chen teaches a method for directing a user on a network to a server, comprising the steps of:

receiving from the user a Hyper Text Transfer Protocol (HTTP) request for web content (Column 4, lines 9-11, Chen discloses HTTP request);

sending to the user, in response to the HTTP request, web content comprising a client side program, wherein the side client program reads a local time of the user and embeds the local time of the user into a link (Column 7, lines 19-65, Chen discloses using local time of the user);

receiving from the user, in response to the user clicking on the link, an HTTP request for a web page, wherein the HTTP request includes the local time of the user (Column 7, lines 19-65, Chen discloses local time of user);

determining from the local time of the user, using a server side program, a topological location of the user on the network (Column 7, lines 19-65, Chen discloses determining location from user local time);

determining from the topological location of the user, using a server side program, an identity of the server that is capable of fulfilling the user's request and that is topologically nearest to the user (Column 7, lines 19-65, Chen discloses determining closest server based on local time); and

forwarding the request of the user to the identified server, wherein a time required to satisfy the request of the user is optimized (Column 7, lines 19-65, Chen discloses using closest server).

As to claim 13, Chen teaches the method of claim 11, wherein the first determining step comprises the step of:

determining, using a server side program, the topological location of the user on the network, wherein the determining takes the following factors into account:

the local time of the user (Column 7, lines 19-65);

a geographical location of the user (Column 7, lines 19-65); and

a topology of the network of the user (Column 7, lines 19-65).

As to claim 15, Chen teaches the method of claim 11, wherein the second determining step comprises the step of:

determining, using a server side program, the identity of the server that is capable of fulfilling the user's request and that is topologically nearest to the user, wherein the determining takes the following factors into account:

the topological location of the user on the network (Column 7, lines 19-65);

the topological location of other servers on the network (Column 7, lines 19-65);

the capability of other servers on the network to fulfill the user's request (Column 7, lines 19-65);
a strength of the connection between the user and other servers on the network (Column 7, lines 19-65); and
a processing load of the other servers on the network (Column 7, lines 19-65).

As to claim 17, Chen teaches a computer system for directing a user on a network to a server, comprising:

a client side program that reads a local time of a client and embeds the local time of the user in a link (Column 7, lines 19-65, Chen discloses using user local time);
a web server for sending web content to a user in response to a request of the user, wherein the web content sent to the user comprises the client side program (Column 7, lines 19-65, Chen discloses using client's local time); and
a server side program for receiving a request from the user, wherein the request is initiated by activation of the client side program and wherein the request includes the local time of the user, wherein the server side program determines from the local time of the user an identity of the server that is best capable of fulfilling the user's request (Column 7, lines 19-65, Chen discloses determining closest server for the user based on user's local time).

As to claim 20, Chen teaches the computer system of claim 17, wherein the request of the user comprises any one of:

- a Hyper Text Transfer Protocol request;
- a File Transfer Protocol request; and
- a Simple Mail Transfer Protocol request (Column 4, lines 9-11).

As to claim 21, Chen teaches a computer readable medium including computer instructions for directing a user on a network to a server, the computer instructions comprising instructions for:

sending to the user a client side program that reads the local time of the user and embeds the local time of the user in a link(Column 7, lines 19-65, Chen discloses using user's local time);

receiving from the user a request and the local time of the user, wherein the client side program effectuated the sending of the local time of the user (Column 7, lines 19-65, Chen discloses receiving request and local time from user);

determining from the local time of the user a topological location of the user on the network (Column 7, lines 19-65, Chen discloses determining user location from local time);

determining from the topological location of the user an identity of the server that is capable of fulfilling the user's request and that is topologically nearest to the user; and directing the user to the identified server, wherein a time

required to satisfy the request of the user is optimized (Column 7, lines 19-65, Chen discloses, Chen discloses determining closest server to the user from local time and using that server).

As to claim 22, Chen teaches the computer readable medium of claim 21, wherein the request of the user comprises any one of:

- a Hyper Text Transfer Protocol request;
- a File Transfer Protocol request; and
- a Simple Mail Transfer Protocol request (Column 4, lines 9-11).

As to claim 24, Chen teaches the computer readable medium of claim 22, wherein the first determining means comprises:

determining the topological location of the user on the network, wherein the determining takes the following factors into account:

- the local time of the user (Column 7, lines 19-65);
- a geographical location of the user (Column 7, lines 19-65); and
- a topology of the network of the user (Column 7, lines 19-65).

As to claim 25, Chen teaches the computer readable medium of claim 22, wherein the second determining means comprises:

determining the identity of the server that is capable of fulfilling the user's request and that is topologically nearest to the user, wherein the determining takes the following factors into account:

the topological location of the user on the network (Column 7, lines 19-65);
the topological location of other servers on the network, the capability of other servers on the network to fulfill the user's request (Column 7, lines 19-65);
a strength of the connection between the user and other servers on the network (Column 7, lines 19-65); and
a processing load of the other servers on the network (Column 7, lines 19-65).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3,7,9,12,14,16,18,19 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. (U.S. Patent Number 6,412,004) as applied above, and further in view of Graham et al. (U.S. Patent Number 6,871,213) hereinafter referred as Graham.

Graham teaches the invention substantially as claimed including a method and system for exchanging information over a communication network (See abstract).

As to claim 3, Chen teaches the method of claim 2, wherein the client side program comprises any one of: a Java applet; a Java scriptlet; a Java script; and an Active X control (Column 4, lines 9-11).

Chen does not explicitly teach the claimed limitation of a Java applet or a Java scriptlet or a Java script or an Active X control.

However, Graham teaches using Java script in client sever communications (Column 4, lines 39-61).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Chen by using Java script in HTTP communications, which runs on client side. One would be motivated to do so to enhance server performance.

Claims 12,18 and 23 represent limitations that are parallel to claim 3 and therefore are rejected for similar reasons.

As to claim 7, Chen teaches the method of claim 6, wherein the first determining step further comprises the step of:

employing a server side program for the determining step, wherein the server side program comprises any one of: a Common Gateway Interface script; a Java servlet; a Hyper Text Preprocessor script; and a Perl script (Column 4, lines 9-11; Column 7, lines 19-65).

Chen does not explicitly teach the claimed limitation of a Common Gateway Interface script or a Java servlet or a Hyper Text Preprocessor script or a Perl script.

However, Graham teaches using Common Gateway Interface script (CGI script) on server side (Column 5, lines 6-10).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Chen by using CGI script in HTTP communications, which runs on server side. One would be motivated to do so to enhance dynamic content creation.

Claims 9, 14, 16 and 19 represent limitations that are parallel to claim 7 and therefore are rejected for similar reasons.

Response to Arguments

5. Applicant's arguments have been fully considered but they are not persuasive.

In the remarks applicant argues in substance that; A) Chen does not teach sending client side program from server to a user that reads local time of the user. B) Chen teaches a system administrator assigns time zone.

In response to A) Chen teaches metaserver uses time zone to measure how close a client is to a server. In a client server architecture any given client information (e.g. local time of client) collecting is done through server/client communication and this is an inheritance feature in the art.

In response to B) Chen does not teach a system administrator assigns time zone. Applicant took the sentence out of context. Chen teaches a system administrator assigns region names ("To measure how close a client is to a multimedia server, the metaserver currently uses time zone, sub net address, and optional region names that may be assigned by a system administrator.").

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faruk Hamza whose telephone number is 571-272-7969. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached at 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 886-217-9197 (toll -free).

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